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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/539,922

08/09/2007

Eric Schliemann

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BACHMAN & LAPOINTE, P.C.  
900 CHAPEL STREET  
SUITE 1201  
NEW HAVEN, CT 06510

EXAMINER

LONG, DONNELL ALAN

ART UNIT

PAPER NUMBER

3754

MAIL DATE

DELIVERY MODE

12/08/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/539,922             | SCHLIEMANN, ERIC    |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | DONNELL LONG           | 3754                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 6/16/2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 18-20,26-31,33 and 34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17,21-25,32 and 35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of the species of Figure 1 in the reply filed on October 30, 2009 is acknowledged.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plurality of actuating elements must be shown or the features canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: There is no support in the specification for a dosing device comprising a plurality of actuating elements as recited in claim 25.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-9, 11-13, 15, 16, and 25 (as presently understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Grothoff (5615806).

Regarding claim 1, Grothoff discloses a fluid dispenser comprising an inlet (49) and a discharge opening in a nozzle (26), wherein the inlet and the discharge opening are disposed separate from each other, a dosing and displacement chamber (53) provided between the inlet and discharge opening, wherein the inlet and discharge opening are closable by closure means (39, 41).

Regarding claim 2, the inlet and the chamber are disposed in a housing (12).

Regarding claim 3, the inlet opens out into the chamber (FIG. 2).

Regarding claim 4, the device includes a suction tube (51).

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Regarding claim 5, the inlet can be closed off by a ball valve (48).

Regarding claim 6, the ball valve is squeezed between retaining ribs (46).

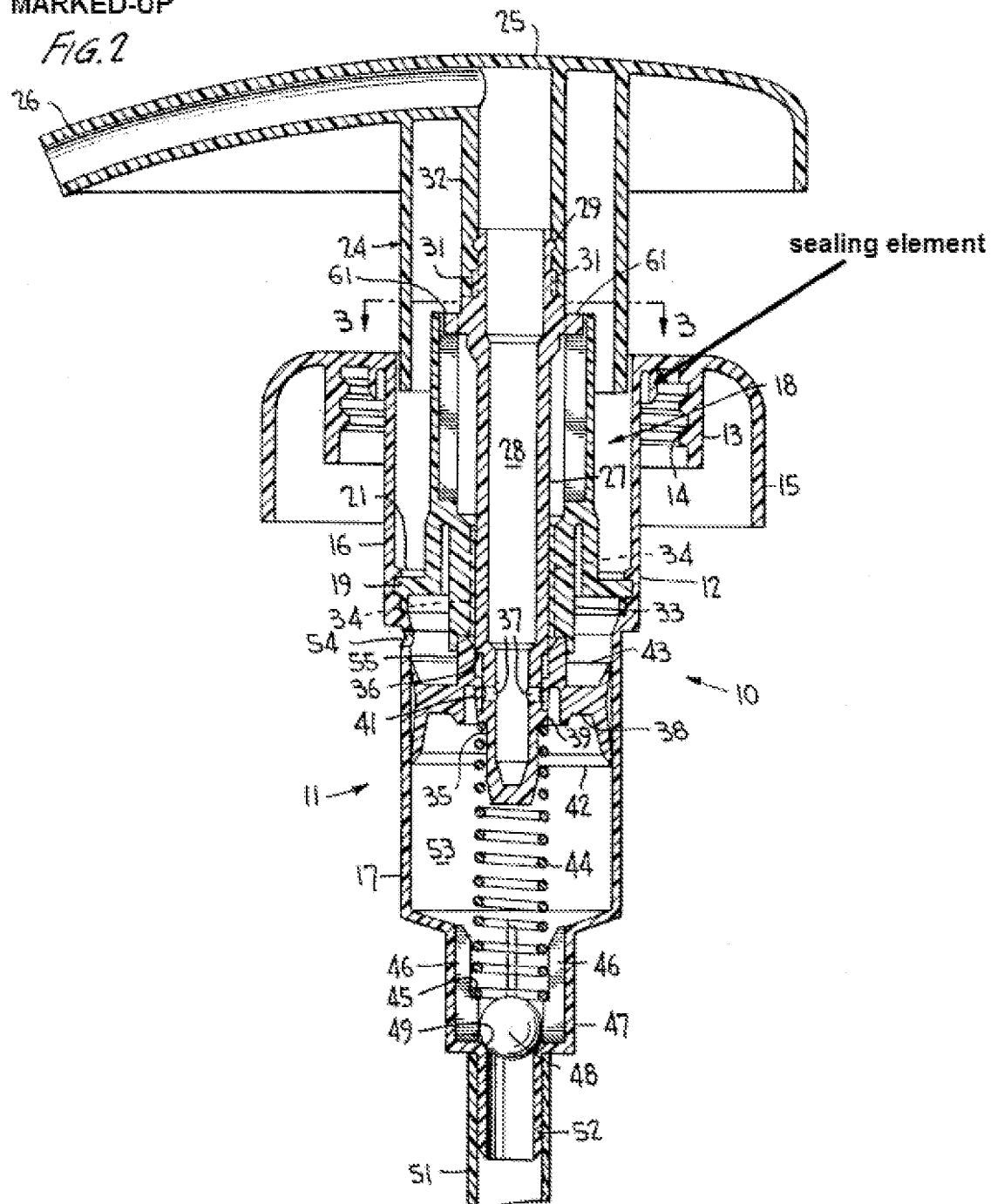
Regarding claim 7, a screw fastening (15) is disposed on the housing.

Regarding claim 8, a central opening or recess is provided in the screw fastening to allow for the passage of air.

Regarding claim 9, a sealing element (see marked-up FIG. 2) is disposed in the screw fastening.

MARKED-UP

FIG. 2



Regarding claim 11, an actuating element (25) is inserted in the housing.

Regarding claim 12, on the housing there is provided at least one guide element (18) for guiding the motion of the plunger.

Regarding claim 13, the discharge opening is provided in the actuating element and a riser (32) in the actuating element cooperates with the discharge opening.

Regarding claim 15, the nozzle is rotatably disposed on the actuating element.

Regarding claim 16, the discharge opening is in connection with an outlet duct in the nozzle.

Regarding claim 25, the actuating element is provided with a piston or sealing ring (38) with respect to a wall of the chamber.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 10, 14, 22, 24, 32, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grothoff in view of Santagiuliana (6672486).

Regarding claim 10, the device includes a plunger (27) and actuating element (25) inserted in the housing.

Grothoff DIFFERS in that it does not disclose guide ribs as claimed. Attention, however, is directed to the Santagiuliana reference, which discloses another fluid dispenser comprising a screw fastening (20) having guide ribs (14a-c) for guiding a plunger (8), allowing a user to adjust the stroke of the pump mechanism.

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It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Grothoff reference in view of the teachings of the Santagiuliana reference by employing guide ribs in order to allow a user to adjust the pump stroke of the device.

Regarding claim 14, the nozzle is rotatably disposed on the plunger.

Regarding claim 22, a snap engagement (Grothoff, 29) is provided between the plunger and actuating element.

Regarding claim 24, on an underside of the plunger there is there is a piston or sealing cam (Grothoff, 38), which can be brought into engagement with the recess on the screw fastening.

Regarding claim 32, the device is provided with indicators (Grothoff, FIG. 5) for closed and open positions.

Regarding claim 35, the actuating element has a recess for dispensing or reception of the product.

8. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grothoff in view of Moore et al. (4838460).

Grothoff DIFFERS in that it does not disclose that rotating the actuating element causes the outlet duct of the nozzle to be closed off by the plunger. Attention, however, is directed to the Moore et al. reference, which discloses another fluid dispenser comprising an actuating element (74), outlet duct (70), and plunger (60, 62), where rotation of the actuating element to a closed position (Fig. 3) causes the outlet duct to be closed off by the plunger.



It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Grothoff reference in view of the teachings of the Moore et al. reference in order to close off the interior of the fluid container from the environment to prevent contamination of the contents and accidental discharge of the fluid from the container.

9. Claims 21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grothoff in view of Santagiuliana, as applied to claim 10 above, and further in view of DeJonge (6443331).

Regarding claim 21, Grothoff DIFFERS in that it does not disclose a scale as claimed. Attention, however, is directed to the DeJonge reference, which discloses another fluid dispenser comprising an adjustable stroke plunger assembly (19) including a scale (36, 37).

It, therefore, would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Grothoff reference in view of the teachings of the DeJonge reference by because doing so would allow a user to adjust the stroke of the pump mechanism as well as measure the amount of fluid to be dispensed.

Regarding claim 23, a sealing groove (Grothoff, 29) is provided between the actuating element and the plunger.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to DONNELL LONG whose telephone number is (571) 270-5610. The examiner can normally be reached on M-F 8AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, KEVIN SHAVER can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. L./

Examiner, Art Unit 3754

/Kevin P. Shaver/

Supervisory Patent Examiner, Art Unit 3754